



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: South Bend Lathe, Inc.
File: B-223639
Date: November 12, 1986

DIGEST

Protest from company not in line for award if protest is upheld is dismissed because protester does not have the required direct economic interest to be considered an "interested party" under GAO Bid Protest Regulations.

DECISION

South Bend Lathe, Inc. (South Bend), protests the award of a contract to Clausing Industrial Inc. (Clausing), under request for proposals (RFP) No. F09603-86-R-0429 issued by the Department of the Air Force. South Bend contends that Clausing's offer should have been rejected because it was qualified by attached unsolicited literature describing equipment that did not comply with the RFP's specifications.

We dismiss the protest based on the Air Force's report, which shows that South Bend is not an interested party under our Bid Protest Regulations. See 4 C.F.R. § 21.3(f) (1986), which provides that when the propriety of a dismissal becomes clear only after information is provided by the contracting agency, we will dismiss the protest at that time.

This solicitation was for the acquisition of toolroom lathes and related data. The Air Force received six offers in response to the solicitation; negotiations were conducted with the five acceptable offerors and best and final offers were received from each. The agency reports that although descriptive literature and technical proposals were not required under this RFP, Clausing furnished both with its offer; consequently, a technical evaluation of Clausing's proposal was conducted to determine if Clausing's proposed equipment met the requirements of the specifications. The proposal was found technically acceptable and Clausing received the award as the lowest acceptable, responsible offeror.

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South Bend contends that the descriptive technical literature submitted with Clausings's proposal indicates that Clausings intends to provide an engine lathe and not a toolroom lathe which will not comply with certain requirements of the specifications.

From our review of the record, however--including the Abstract of Proposals--it appears (and the Air Force has confirmed) that South Bend is the third low offeror, and thus would not be in line for the award if its protest was upheld. We therefore find that South Bend is not an "interested party" eligible to challenge the award under our Regulations, because it lacks the "direct economic interest" that is necessary to make it an interested party. 4 C.F.R. § 21.0(a) and § 21.1(a). Here, the record shows that an intervening offeror would be in line for award even if South Bend's protest was sustained. Consequently, we dismiss the protest. See Comsel Corp., et al., B-221170.3 et al., Jan. 31, 1986, 86-1 C.P.D. ¶ 115.



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